

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, *et al.*,

v.
Plaintiffs,

Case No: CIV-21-1069-G

JOSEPH R. BIDEN, JR., in his official capacity as President of the United States, *et al.*,

Defendants.

PLAINTIFFS' NOTICE OF NEW AUTHORITY

Plaintiffs The State of Oklahoma; J. Kevin Stitt, Governor of Oklahoma; and John M. O'Connor, Attorney General of Oklahoma, hereby notify the Court of the recent decision of the U.S. District Court for the Eastern District of Kentucky in *Kentucky v. Biden*, No. 3:21-cv-00055-GFVT, 2021 WL 5587446 (E.D. Ky. Nov. 30, 2021) (“*Kentucky*”) (attached as Exhibit 1).

In *Kentucky*, plaintiffs sued President Biden and other federal defendants for issuing and seeking to enforce the contractor mandate. The Eastern District of Kentucky granted plaintiffs’ motion for a preliminary injunction. It enjoined the federal defendants from enforcing the contractor mandate in Kentucky, Ohio, and Tennessee. *Id.* at *14. In so doing, the *Kentucky* Court relied on the Federal Property and Administrative Services Act (“Procurement Act”);¹ the non-delegation principle undergirding our separation of powers;

¹ On the Procurement Act claim, the *Kentucky* Court wrote: “If a vaccination mandate has a close enough nexus to economy and efficiency in federal procurement, then the statute

and the Tenth Amendment implications for the police power of the States to regulate public health. These are also some of the grounds invoked by Plaintiffs in their own Complaint and Motion for Temporary Restraining Order and Preliminary Injunction.

Accordingly, this Court should consider this new authority in its adjudication of Plaintiff's pending motion.

Respectfully submitted,

s/ Mithun Mansinghani

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could be used to enact virtually any measure at the president's whim under the guise of economy and efficiency." 2021 WL 5587446, at *7.

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* *Pro hac vice* motions pending

Counsel for Plaintiffs The State of Oklahoma; J. Kevin Stitt, Governor of Oklahoma; and John M. O'Connor, Attorney General of Oklahoma

Dated: December 2, 2021